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January 12, 2001

Darryl R. Wold
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Response by Lincoln Diaz-Balart for Congress Committee to FEC
"Reason to Believe" Finding (MUR 5161)

Dear Chairman Wold:

This letter responds on behalf of Lincoln Diaz-Balart for Congress Committee ("the Committee"), Committee ID No. C00264028, located at 2801 Ponce De Leon #1000, Coral Gables, Florida 33134, to the Commission's letter ("RTB") dated December 12, 2000, which states that the FEC has reason to believe that the Committee violated 2 U.S.C. §§ 434(b)(1), 441a(f), and 441b(a). As described below, the Committee has remedied the issues that gave rise to the RTB.

BACKGROUND

The Commission's Audit Division conducted an audit of the Lincoln Diaz-Balart for Congress Committee for the period January 1, 1997 through December 31, 1998. The Commission approved the audit report on March 24, 2000.

The audit report noted several accounting discrepancies in the Committee's reports for this period, as well as the receipt of certain excessive or impermissible contributions. The audit report also noted that the Committee Treasurer, Mr. Ayuban Tomas, had been reported to be in ill health, and that the Committee had been unresponsive to requests by the auditors for specific additional information. The audit report detailed Commission efforts to notify Congressman Lincoln Diaz-Balart regarding these matters, although in fact no one from the Federal Election Commission actually spoke with the Congressman or had any other direct contact with him throughout the audit period, or following the audit report's release, until a meeting between Commission staff and the Congressman's legal counsel, at Counsel's request, on November 20, 2000. As part of the record in this proceeding, we are submitting as attachment A to this

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21-04-405-1193

Response a letter from Congressman Diaz-Balart detailing (1) his lack of personal knowledge of this matter until November of 2000, when he first learned of the audit in press reports, and his great concern and dismay upon learning at that time of the Commission's Audit Report and related issues; and (2) the steps he immediately took upon learning of these matters to correct the situation, including retaining a new Committee Treasurer, a certified public accountant, to review the Committee's records, filing amended FEC reports as necessary, and fully responding to the audit findings.

Congressman Diaz-Balart's letter demonstrates that he acted decisively immediately upon learning of the Audit Report. The Congressman also retained FEC Counsel to contact the Commission on his behalf and meet with FEC staff to determine what steps he and the Committee should take to correct the public record. Most extraordinarily, his wife, Cristina Diaz-Balart, a banker by profession, has volunteered her time virtually non-stop since November 7th to work with Committee personnel and the new Committee Treasurer, Jose A. Riesco, to review Committee records, obtain bank statements and canceled checks, track down refund checks, and prepare comprehensive amendments for Committee reports.

As a result of this extensive personal effort by the Congressman and Mrs. Diaz-Balart, the new Committee Treasurer, Mr. Riesco, and other Committee personnel, the Committee has filed with the Commission today comprehensive amendments for calendar years 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000, as well as filing in advance the Committee's 2000 Year-End Report (due January 31, 2001). A copy of the transmittal letter for these reports is included as Attachment B. The Committee has also provided the Commission today with copies of the front and back of the negotiated checks refunding excessive or impermissible contributions referenced in the Audit Report.

RTB FINDINGS

Following an audit that covered the period from January 1, 1997 through December 31, 1998, the Commission found reason to believe that (1) "the Committee accepted contributions from 18 individuals which exceeded the contribution limitation by a total of \$17,700"; (2) "the Committee accepted 23 corporate contributions totaling \$10,630"; and (3) "the Committee's January 1, 1997 beginning cash on hand was overstated by \$114,076."

SUBSEQUENT ACTIONS BY THE COMMITTEE

As noted above, upon personally learning of reporting irregularities, Congressman Lincoln Diaz-Balart directed the Committee to immediately move to correct the situation. The Committee sent out new refund checks for excessive and/or prohibited contributions. Those

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checks have cleared, and copies have now been provided to the Commission. Furthermore, the Committee hired Mr. Jose A. Riesco, an accountant, to be the Committee's new treasurer. Mr. Riesco has reconciled the discrepancy between the cash carried on the Committee's books and the actual amount in the Committee's account. Mr. Riesco found that the discrepancy was caused primarily by the following factors: (1) failures to comprehend and follow reporting instructions, and consequential arithmetic reporting errors (such as adding the ending balance of one calendar year into the next years 'contributions received', thereby significantly overstating Committee receipts and creating a conflict with cash on hand figures), (2) disbursements that had not been previously reported, (3) overstatements of bank interest income, and (4) receipts that had been double-counted—once as itemized receipts and once again as unitemized receipts.

CONCLUSION

The Committee now seeks to conclude this entire matter by entering into a Conciliation Agreement with the Commission.

We look forward to hearing from the Office of General Counsel at their convenience once they have had an opportunity to review all of these materials.

Sincerely,



Trevor Potter
Matthew S. Petersen
Counsel to Lincoln Diaz-Balart
for Congress Committee

Enclosures

cc: The Hon. Lincoln Diaz-Balart
Jose A. Riesco, Treasurer

954259

NOTE: 504-40-12

LINCOLN DIAZ-BALART
U.S. Congressman
Florida, District 21



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Miami, Florida 33178
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January 12, 2001

Federal Election Commission
999 E Street, N.W.
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To whom it may concern:

On November 6, 2000, I first became aware by a press report that my campaign committee - Lincoln Diaz-Balart for Congress Committee ("the Committee") - had been the subject of a Federal Election Commission ("FEC") Audit Report. Prior to that time, I had been occasionally informed by my staff that the FEC had questions about reports filed by the Committee, and I was assured that those questions had been fully and satisfactorily responded to. At no time was I informed nor was I aware that the Committee was engaged in an ongoing audit process, or that an audit report had been issued in March of 2000.

I greatly respect and appreciate the hard work of my staff, and am sorry that the serious illness of my previous Committee treasurer, Mr. Ayuban Tomas, rendered him unable to keep up with the Committee's financial activities and reports or to respond to the FEC inquiries. I also accept that the Committee staff, who I now understand had received a number of FEC inquiries over the years concerning Committee reports, may not have recognized that the questions posed to them by FEC staff during the audit were part of a substantially different, and more formal, FEC process. Nonetheless, I deeply regret the failure of my staff to keep me informed regarding the FEC's inquiries, and my staff's difficulties in responding to those inquiries.

In November 2000, when I became aware of the FEC audit report for the years 1997 and 1998 and of the questions it raised, I took immediate steps to rectify the situation. The first and most important was to ask Mr. Jose A. Riesco, an experienced and widely respected Certified Public Accountant in my community, to serve as treasurer of the Committee. He accepted the position and immediately notified the Commission of the change. I then directed him to oversee a review of all of the Committee's reports from 1993 through to the present, and to file corrections with the FEC as necessary. My wife, Cristina Diaz-Balart, an economist by training and a banker by profession, was as distressed as I was to learn of the difficulties relating to the Committee's FEC reports, and volunteered her personal time to assist Mr. Riesco and Committee representatives in reviewing the Committee's records. I am grateful beyond description to Cristina for the literally nonstop work she put into this matter (working up to 18 hour days) from early November until now. I also retained legal counsel experienced in FEC matters to assist the

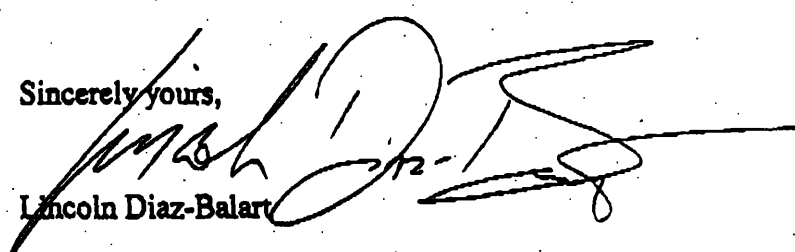
Committee by contacting the FEC and addressing all of these issues before the Commission.

As a result of these efforts, I understand the Committee is now prepared to file full amendments to its reports for the years 1993 through 2000. This is, of course, well beyond the scope of the FEC's audit. However, I believe it is necessary and appropriate to correct the public record and to accurately state the Committee's activity for all these years. Additionally, through the hard work of Mr. Riesco, my wife, and Committee representatives, the Committee is now able to respond through these amended reports to each of the issues raised in the FEC audit report and to present the Commission with copies of negotiated canceled checks showing refunds requested by the Commission.

It is most important to note that this extraordinarily thorough review of the Committee's financial records for this entire period did not reveal any illegal activity or misappropriation of funds. What it does show is that Committee representatives over the years made a number of arithmetical errors in completing FEC reports and failed to maintain financial records in the necessary detail and form. Reports were also occasionally filed late. I am confident the Committee's new treasurer, Mr. Riesco, will bring a high level of technical expertise to the Committee's reports (as the Committee's amended reports already demonstrate) and avoid such problems in the future.

Sincerely yours,

Lincoln Diaz-Balart

A handwritten signature in black ink, appearing to read 'Lincoln Diaz-Balart', with a long horizontal flourish extending to the right.

21.04.405.1106

Wiley, Rein & Fielding

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January 12, 2001

Federal Election Commission
Reports Analysis Division
999 E Street, N.W.
Washington, District of Columbia 20463

To Whom It May Concern:

This letter is filed on behalf of the Lincoln Diaz-Balart for Congress Committee ("the Committee"), Committee ID No. C00264028, located at 2801 Ponce De Leon #1000, Coral Gables, Florida 33134, for the purpose of transmitting the Committee's 2000 Year-End Report and comprehensive amendments and materials for the following time periods:

A. Pre-Audit Period (1993 through 1996)

1. 1993 Comprehensive Amendment, which encompasses:
 - (a) Mid-Year Report
 - (b) Year-End Report
2. 1994 Comprehensive Amendment, which encompasses:
 - (a) April 15 Quarterly Report
 - (b) July 15 Quarterly Report
 - (c) Pre-Primary Report
 - (d) October 15 Quarterly Report
 - (e) Pre-General Report
 - (f) Post-General Report
 - (g) Year-End Report
3. 1995 Comprehensive Amendment, which encompasses:
 - (a) Mid-Year Report
 - (b) Year-End Report

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4. 1996 Comprehensive Amendment, which encompasses:
 - (a) April 15 Quarterly Report
 - (b) July 15 Quarterly Report
 - (c) Pre-Primary Report
 - (d) October 15 Quarterly Report
 - (e) Pre-General Report
 - (f) Post-General Report
 - (g) Year-End Report

B. Audit Period (1997 through 1998)

The Commission conducted an audit of the Committee that covered the period from January 1, 1997 through December 31, 1998. Amendments for these years are as follows:

1. 1997 Comprehensive Amendment, which encompasses:
 - (a) Mid-Year Report
 - (b) Year-End Report
2. 1998 Comprehensive Amendment, which encompasses:
 - (a) April 15 Quarterly Report
 - (b) July 15 Quarterly Report
 - (c) Pre-Primary Report
 - (d) October 15 Quarterly Report
 - (e) Pre-General Report
 - (f) Post-General Report
 - (g) Year-End Report

C. Post-Audit Period (1999 through 2000)

The Committee is filing amendments to its 1999 and 2000 reports. The Committee's new treasurer, Mr. Jose Riesco, reviewed the amended reports to ensure they reflected the changes necessitated by the amendments to the reports listed above (such as cash on hand at the beginning of the reporting period). Moreover, the amended

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reports are responsive to the requests for additional information made by the Commission during these years.

Finally, as noted at the outset, the reports submitted with this letter include the Committee's 2000 Year-End Report, submitted early and due January 31, 2001. If you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor Potter". The signature is written in a cursive, flowing style.

Trevor Potter

Enclosures

cc: The Honorable Lincoln Diaz-Balart
Jose A. Riesco, Treasurer